

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



DCOZ

Application No. 18268 of Joshua Temple First Born Church, pursuant to 11 DCMR § 3103.2, for a variance from the parking requirements under subsection 2101.1, to allow the construction of a new church in the C-1 District at premises 4318 Sheriff Road, N.E. (Square 5097, Lot 51).¹

HEARING DATE: November 1, 2011
DECISION DATE: November 1, 2011 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 5.)

The Board of Zoning Adjustment (“Board” or “BZA”) provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to the Applicant, Advisory Neighborhood Commission (“ANC”) 7D, and to all owners of property within 200 feet of the property that is the subject of this application.² The subject property is located within the jurisdiction of ANC 7D, which is automatically a party to this application. ANC 7D submitted a letter, dated October 14, 2011, in support of the application. The ANC noted that at a duly noticed and regularly scheduled public meeting on October 11, 2011, with a

¹ The Applicant seeks to rebuild its former 100-year-old church that was demolished due to structural damage. The advertised relief was described in the alternative as a variance under § 2101.1 from parking requirements or, alternatively, as a special exception to locate required parking spaces elsewhere than on the lot upon which the building is located under § 2116.5. Pursuant to the Zoning Regulations, the proposed church structure would require 11 on-site parking spaces. Of those 11 spaces, seven would be deemed “grandfathered” by the Zoning Administrator, leaving four spaces required, where none would be provided. The Applicant also has an agreement with a nearby commercial property owner, the Republic National Distributing Company, to provide access to 12 parking spaces on the company’s property for use by church attendees during regularly scheduled worship services. (Exhibit 4, Tab 14.) While acknowledging this agreement, the Board granted the variance relief, thereby rendering the special exception relief unnecessary. The caption has been amended to reflect the relief the Board granted.

² Notice was also provided to ANC 7C, which was mistakenly thought to be the affected ANC at first. The subject property is on the street that separates ANC 7C from ANC 7D. When it was discovered that ANC 7D was in fact the ANC in which the subject site was located, notice was provided to that ANC as well.

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quorum present, the ANC voted unanimously (7:0) to support the application.³ (Exhibit 25.) There also was a letter of opposition received from ANC 7C. (Exhibit 24.)⁴ Also, a longtime resident in the area, Dorothy Douglas, testified in support of the application.

The Office of Planning (“OP”) submitted a report in support of the application. OP’s report recommended approval of variance relief from the parking requirement, where four on-site parking spaces would be required and none provided. OP indicated that the District Department of Transportation (“DDOT”) also provided comments via email on October 14, 2011. DDOT indicated that there were no concerns with respect to adverse impacts if variance relief was granted. (Exhibit 27.)

As directed by 11 DCMR § 3119.2, the Board required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance under § 3103.2 from the strict application of the parking requirements under § 2101.1. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Board closed the record at the conclusion of the hearing. Based upon the record before the Board, and having given great weight to the ANC and OP reports⁵ filed in this case, the Board concludes that the Applicant has met the burden of proof pursuant to 11 DCMR § 3103.2 for a variance under § 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirements of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party and is appropriate in this case.

It is therefore **ORDERED** that the application is hereby **GRANTED (pursuant to Exhibit 4, Tabs 8, 11, 12, and 13 – Plans).**

³ In its report ANC 7D indicated its support of the application, as presented in the alternative and expressed its reassurance by the Applicant’s agreement with the distribution company for the use of the 12 off-site parking spaces. (Exhibit 25.)

⁴ The Board did not grant great weight to the report from ANC 7C, since the property is not located in that ANC. However, the Board did acknowledge ANC 7C’s letter during its deliberations, stating that it believed that its concerns had been addressed by the Applicant.

⁵ As the subject site is located in ANC 7D and not in ANC 7C, the Board did not consider ANC 7C a party nor give its report great weight. The Board did consider ANC 7D, the ANC in which the subject site is located, a party and gave its report great weight.

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VOTE: 5-0-0 (Meridith H. Moldenhauer, Michael G. Turnbull, Nicole C. Sorg, Lloyd L. Jordan, and Jeffrey L. Hinkle to approve.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

ATTESTED BY:


RICHARD S. NERO, JR.

Acting Director, Office of Zoning

FINAL DATE OF ORDER: NOV 03 2011

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

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DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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As Director of the Office of Zoning, I hereby certify and attest that on **NOV 03 2011** a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, or delivered by electronic mail in the case of those ANCs and SMDs that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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ATTESTED BY:

A handwritten signature in black ink, appearing to read "Richard S. Nero, Jr.", is written over a horizontal line.

RICHARD S. NERO, JR.
Acting Director, Office of Zoning

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